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LOS ANGELES UNIFIED SCHOOL DISTRICT

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT**

11 LOS ANGELES UNIFIED SCHOOL )  
12 DISTRICT, a Political Subdivision of the State )  
13 of California )

14 Petitioner, )

15 v. )

16 EDMOND G. BROWN, in his official capacity )  
as the Governor of California; STATE OF )  
17 CALIFORNIA; ANA J. MATOSANTOS, in )  
her official capacity as Director of Finance for )  
18 the State of California; TOM TORLAKSON, )  
in his official capacity as State Superintendent )  
19 of Public Instruction; CALIFORNIA )  
DEPARTMENT OF EDUCATION, a State )  
20 agency; and DOES 1-20, inclusive. )

21 Respondents. )  
22 \_\_\_\_\_ )  
23  
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**CASE NO.:**

**VERIFIED PETITION FOR WRIT OF  
MANDATE AND COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE  
RELIEF**

1 Petitioner the LOS ANGELES UNIFIED SCHOOL DISTRICT ("LAUSD" or "District")  
2 brings this petition for writ of mandate and complaint for injunctive relief and declaratory relief  
3 pursuant to California Code of Civil Procedure sections 1085, 1060, 526, and 526a against  
4 respondents/defendants EDMUND G. BROWN, in his official capacity as the GOVERNOR,  
5 STATE OF CALIFORNIA, ANA J. MATOSANTOS, in her official capacity as the DIRECTOR  
6 OF FINANCE, TOM TARLAKSON in his official capacity as State Superintendent of Public  
7 Instruction, and the CALIFORNIA DEPARTMENT OF EDUCATION (collectively,  
8 "Defendants" or "Respondents") and alleges as follows:  
9

#### 10 INTRODUCTION

11 1. With this action, LAUSD seeks to prevent Respondents from implementing  
12 LAUSD's share of mid-year "trigger" budget cuts that would take an estimated \$117 million  
13 over the next two fiscal years in funding from the District's budget for Home to School  
14 Transportation, including \$38 million from the current year's budget beginning on January  
15 1, 2012.

16 2. LAUSD is the nation's second largest school district, educating more than  
17 580,000 K-12 students in its schools. Due to the enormous budget cuts that have plagued K-12  
18 education funding over past three years, LAUSD, its students, parents, teachers, and  
19 administrators have already made numerous hard sacrifices. With more than \$1.5 billion already  
20 stripped from its budgets, LAUSD has slashed central and local district budgets, eliminated more  
21 than 10,000 positions, moved thousands of employees from 12-month to 10-month schedules,  
22 eliminated summer school for most students, shortened the school year for all students, and  
23 worked with its unions so that more than 68,000 employees would take unpaid furlough days.  
24 LAUSD cannot withstand further budget cuts without adversely impacting the educational  
25 benefits it offers its students.

26 3. On December 13, 2011, the California Director of Finance issued a revenue  
27 forecast and based on that forecast, made a determination to initiate various budget reductions on  
28

1 January 1, 2012. During this year, these budget cuts will include a catastrophic \$38 million cut  
2 to the District's current transportation services budget. A cut of this magnitude is devastating as  
3 it would deplete half of the District's transportation budget *after* it has provided half a year of  
4 transportation services. The Director of Finance indicated that these cuts would be ongoing in  
5 subsequent years.

6 4. Despite the impending decimation of its transportation budget, LAUSD cannot  
7 simply terminate its transportation services. First, unlike other districts, Constitutional mandates  
8 and a 1981 court desegregation order in *Crawford v. Board of Education of the City of Los*  
9 *Angeles* require LAUSD to provide transportation to students participating in its Magnet School,  
10 Permits with Transportation ("PWT") Programs. Second, both federal and State law requires the  
11 District to provide transportation to students with disabilities if those services are determined to  
12 be necessary for them to enjoy the same educational benefits as other students.

13 5. As a result of the combined mandates, the trigger cuts essentially force the  
14 District to choose between two illegal and unconstitutional outcomes. It must either terminate its  
15 transportation services in direct violation of federal and state laws and the 1981 court order, or  
16 divert precious classroom dollars from its general fund to pay for the required transportation  
17 services.

18 6. Choosing to divert funds that are needed in the classrooms, which the *Crawford*  
19 order requires, violates the California Constitution because further budget cuts would adversely  
20 impact the educational benefits offered to its students. LAUSD's students would receive a  
21 disproportionately lower share of funding and educational opportunities as compared to students  
22 in school districts without those mandatory costs.

23 7. Under the California Constitution, the State bears the ultimate responsibility for  
24 ensuring public school students receive equal educational opportunities and free adequate  
25 education services. Calif. Const. art. I, § 7 (a) and (b); art. IV, § 16 (a). The California Supreme  
26 Court has consistently recognized that the equal protection guarantees are so important that they  
27 require State intervention to ensure that fiscal problems do not deprive a local district's students  
28

1 of basic educational equality. *Butt v. State of California*, (1992) 4 Cal.4th 668, 679.

2 8. Because LAUSD cannot withstand further budget cuts without adversely  
3 impacting the educational benefits offered to its students, Respondents must be enjoined from  
4 implementing the mid-year budget cuts and/or ordered to continue funding LAUSD's required  
5 transportation services. Without immediate relief to prevent the denial of crucial services to  
6 children with the most need or take money from funds that need to be spent educating kids in the  
7 classroom, the District and its students will suffer irreparable harm in violation of the California  
8 Constitution.

9 9. Moreover, the Legislature's delegation of its authority to make appropriations to  
10 the Governor and the Director of Finance, by requiring them to make choices regarding the  
11 amount of appropriation cuts, is unconstitutional and in violation of the Cal. Const. Art. III, § 3.

12  
13 **THE PARTIES**

14 10. Petitioner LAUSD is a unified school district duly formed in accordance with  
15 California law and possessing those powers set forth in the California Constitution and the laws  
16 of the State of California. The nation's second largest school district, LAUSD operates 1,092  
17 schools, including 526 elementary schools, 131 middle schools, 140 high schools, 173 charter  
18 schools, and 122 alternative school programs. LAUSD maintains 24 community adult schools  
19 and 206 early education centers or preschools. LAUSD enrolls more than 500,000 students in  
20 K-12. LAUSD receives funding from the State of California in order to provide the State's  
21 required educational program and is directly harmed by the impending mid-year budget cuts that  
22 will slash an estimated \$38 million from its current budget for Home To School Transportation  
23 and/or the State's failure to comply with the educational funding requirements of the California  
24 Constitution. On behalf of its students, LAUSD also asserts that its students are being harmed or  
25 at substantial risk of being harmed by the same impending cuts.

26 11. Respondent EDMUND G. BROWN ("BROWN" or the "Governor") is the  
27 Governor of the State of California. The Governor has broad powers to supervise the official  
28

1 conduct of all executive and ministerial officers, including the financial, education, and business  
2 policies of the State. Gov. Code, Sect. 12010, *et seq.* As Governor, BROWN approves of  
3 legislation and the Governor's Budget each year. BROWN is named herein in his official  
4 capacity only.

5 12. Respondent STATE OF CALIFORNIA ("State") is the legal and political entity  
6 required by article IX of the California Constitution to provide an educational system for  
7 California students. The State is responsible for providing K-12 education with minimum  
8 funding each year.

9 13. Respondent ANA J. MATOSANTOS ("Director of Finance") is the Director of  
10 the Department of Finance ("DOF") for the State of California. The Director of Finance has  
11 general powers of supervision over all matters concerning the financial and business policies of  
12 the State. Gov. Code § 13070. As the chief fiscal advisor to the Governor, the Director of  
13 Finance directs the preparation of the Governor's Budget each year, and has a statutory duty to  
14 propose necessary adjustments to the Governor's Budget each May. Gov. Code § 13308.  
15 Together with the Superintendent of Public Instruction, respondent MATOSANTOS is  
16 responsible for calculating and certifying the minimum school funding guarantee of article XVI,  
17 section 8 of the California Constitution. Educ. Code § 41206 (b). Though charged with  
18 upholding the State's Constitution, on December 13, 2011, she issued a revenue forecast and  
19 made a determination to initiate various budget reductions on January 1, 2012. MATOSANTOS  
20 is named herein in her official capacity only.

21 14. Respondent TOM TORLAKSON is California's State Superintendent of Public  
22 Instruction. The Superintendent of Public Instruction has general powers of supervision over all  
23 schools in the State of California. Gov. Code § 33110, *et seq.* As the chief fiscal advisor to the  
24 Governor, she directs the preparation of the Governor's Budget each year. She also has a  
25 statutory duty to propose necessary adjustments to the Governor's Budget each May. Gov.  
26 Code, § 13308. Together with the Director of Finance, the Superintendent of Public Instruction  
27 is responsible for calculating and certifying the minimum school funding guarantee of article  
28

1 XVI, section 8 of the California Constitution. Educ. Code § 41206 (b). The Superintendent is  
2 also responsible for apportioning the targeted instructional improvement block grant that is used  
3 to fund court ordered desegregation programs. Educ. Code § 41540 (a). TORLAKSON is named  
4 herein in his official capacity only.

5 15. Respondent CALIFORNIA DEPARTMENT OF EDUCATION is responsible for  
6 education in California and charged with revising and updating budget manuals, forms and  
7 guidelines, cooperating with federal and state agencies in prescribing rules and regulations, and  
8 instructions required by those agencies, and assessing the needs and methods of collecting and  
9 disseminating financial information.

10  
11 **THE STATE HAS CRIPPLED LAUSD WITH REPEATED K-12 BUDGET CUTS**

12 16. LAUSD is the nation's second largest school district with more than 580,000  
13 K-12 students in its schools.

14 17. In the past three years, LAUSD has had to accommodate more than \$1.5 billion in  
15 budget cuts. As a result, LAUSD has slashed central and local district budgets, eliminated more  
16 than 10,000 positions, moved thousands of employees from 12-month to 10-month schedules,  
17 eliminated summer school for most students, shortened the school year for all students, and  
18 worked with its unions so that more than 68,000 employees would take unpaid furlough days.

19 18. Having already made numerous hard decisions, LAUSD can withstand no more  
20 budget cuts without severely impacting its ability to provide an adequate education for its  
21 students. LAUSD is already working on a budget with millions of dollars in State spending  
22 deferrals.

23  
24 **CALIFORNIA'S ADOPTION OF THE MID-YEAR TRIGGER CUTS**

25 19. On June 30, 2011, the Governor signed into law Assembly Bill 121, which added  
26 the following language as section 3.94 to the Budget Act of 2011:

- 27 (a) Not later than December 15, 2011, the Director of Finance shall forecast General  
28 Fund revenues for the 2011-12 fiscal year and shall determine whether that

1 revenue forecast or the Legislative Analyst's November 2011 General Fund  
2 revenue forecast is higher. The Director of Finance shall notify the Joint  
3 Legislative Budget Committee of the determination and the amount of the higher  
4 forecast.

5 ...  
6 (c) If the higher revenue forecast determined pursuant to subdivision (a) projects  
7 General Fund revenues for the 2011-12 fiscal year of less than \$86,452,500,000,  
8 the Director of Finance, in addition to the reductions specified in subdivision (b),  
9 shall do both of the following on or after January 1, 2012:

10 (1) Reduce Item 6110-111-0001 of Section 2.00 by not more than  
11 \$248,000,000.

12 ...  
13 (d) Within 10 days of any reduction made pursuant to this section, the Director of  
14 Finance shall notify the Joint Legislative Budget Committee of the reduction.

15 AB 121.

16 20. In November 2011, the California Legislative Analyst's Office projected a  
17 significant revenue shortfall and declared that the full \$2 billion in trigger reductions necessary.

18 21. On December 13, 2011, the California Director of Finance issued a higher  
19 revenue forecast, and using those projections, initiated various mid-year budget cuts to begin on  
20 January 1, 2012. Included in these "trigger" cuts is the entire K-12 transportation budget,  
21 labeled Home to School Transportation (Budget Item No. 6110-111-0001).

22 **ADDITIONAL BUDGET CUTS FACING LAUSD ON JANUARY 1, 2012**  
23 **WILL DESTROY ITS ABILITY TO PROVIDE TRANSPORTATION SERVICES**

24 22. Based on the Director of Finance's determination to cut the Home To School  
25 Transportation budget, LAUSD stands to lose an estimated \$117,000 million. For this year's  
26 budget, it will lose \$38 million when Budget Item 6110-111-0001 for Home To School  
27 Transportation is reduced on January 1, 2012.

28 23. Because the mid-year cuts to LAUSD's transportation budget eliminate half of the  
program's funding *after* it has provided half a year of transportation services half of the school  
year has elapsed, the transportation cuts would be catastrophic to the District's transportation

1 services.

2 24. A cut of this magnitude would effectively eliminate all home-to-school  
3 transportation for the 48,000 students that participate in LAUSD Magnet and Special Education  
4 programs, both programs which LAUSD is required to offer.

5  
6 **LAUSD'S TRANSPORTATION BUDGET PROVIDES SERVICES**  
7 **THAT ARE NOT ONLY NECESSARY, BUT REQUIRED BY LAW,**  
8 **CONSTITUTIONAL MANDATES, AND A 1981 COURT ORDER**

9 25. Through its Home To School Budget, the District provides necessary  
10 transportation services to 13,000 children with physical, developmental, and behavioral  
11 disabilities. Or who qualify for other transportation services. This transportation is provided  
12 under federal and State laws that require public schools to make available to all eligible children  
13 with disabilities a free appropriate public education in the least restrictive environment  
14 appropriate to their individual needs. Cal. Educ. Code § 56360, *et seq.*; 20 U.S.C. § 1400, *et seq.*  
15 The District is obligated to provide transportation to students with disabilities if the students  
16 require transportation in order to benefit from their special education programs.

17 26. The vast majority of the students, approximately 35,222 this school year, utilize  
18 the transportation services through desegregation programs, such as the District's Magnet School  
19 and Permits with Transportation Programs. The District's desegregation programs are court-  
20 ordered voluntary desegregation tools that emerged from the *Crawford v. Board of Education of*  
21 *the City of Los Angeles* litigation, in which LAUSD was found segregated in violation of both  
22 the State and U.S. Constitutions.

23 27. On September 10, 1981, in *Crawford*, Superior Court Judge Robert B. Lopez  
24 issued a desegregation order requiring LAUSD to implement an all voluntary desegregation plan  
25 with the Magnet Schools and PWT Programs.

26 28. The Magnet School Program, as the name implies, establishes a series of schools  
27 with specialized themes or educational approaches that are designed to attract students from  
28



1 different neighborhoods to travel to them. Each magnet school offers a subject specialty, such as  
2 science, medicine, law, performing arts, business, or special teaching approaches, such as  
3 fundamental, alternative, and gifted. As a desegregation tool, LAUSD employs a number of  
4 selection criteria, including race and ethnicity, to ensure that magnet schools are desegregated  
5 whenever possible.

6 29. As the California Court of Appeal and a United States District Court recognized  
7 in two separate actions, LAUSD is still subject to the September 10, 1981 Order. *See American*  
8 *Civil Rights Foundation v. Los Angeles Unified School District*, 169 Cal. App. 4th 436 (2008)  
9 (affirming trial court's grant of summary judgment based on September 1981 Order continuing  
10 in effect); *Friery v. Los Angeles Unified School Dist.*, Case No. CY 00-6536 NM at 21 (C.D.  
11 Cal.) (holding that "[t]here is nothing in the record to indicate that the desegregation order  
12 terminated").

13  
14 **FUNDING ITS MANDATED TRANSPORTATION SERVICES WOULD DIVERT**  
15 **FUNDS FROM CLASSROOMS AND IMPACT VITAL EDUCATIONAL SERVICES**

16 30. Though plans have not yet been finalized or approved, the trigger cuts effectively  
17 force the District to divert precious education funds already committed and necessary for other  
18 programs. At this point, the most likely effect of the cuts will be a cost of \$59 per student this  
19 year and \$118 per student in the subsequent years drawn from funding that would have provided  
20 their educational opportunities. This funding is the equivalent to the amount necessary to fund  
21 447 teachers.

22  
23 **STATUTORY AND REGULATORY FRAMEWORK**

24 **CALIFORNIA'S CONSTITUTIONAL OBLIGATIONS TO FUND SCHOOLS**

25 31. Article VIII, Section 8 of the California Constitution requires funding public  
26 education to be a priority for the State:

27 (a) From all state revenues there shall first be set apart the  
28

1                   moneys to be applied by the state for support of the public  
2                   school system and public institutions of higher education.

3           32.     Cal Const Art XVI § 8 sets a minimum funding level for public schools and  
4     community colleges; furthermore, the second and third formulas that play a role in determining  
5     this level for any given fiscal year presuppose that the Legislature has appropriated a specific  
6     amount of money for public schools and community colleges in the prior fiscal year.  
7     Accordingly, Cal Const Art XVI § 8 requires the Legislature to make a determinate  
8     appropriation of funds every year that meets or exceeds the specified minimum; otherwise, the  
9     second and third formulas cannot fix a minimum level for the following year. *White v. Davis*,  
10    (2002) 108 Cal. App. 4th 197.

11                   **CALIFORNIA'S CONSTITUTIONAL GUARANTEES OF**  
12                   **EQUAL EDUCATIONAL OPPORTUNITY**

13           33.     Since its admission to the Union, California has assumed specific responsibility  
14     for a statewide public education system open on equal terms to all. The Constitution of 1849  
15     directed the Legislature to "provide for a system of common schools, by which a school shall be  
16     kept up and supported in each district." Cal. Const. of 1849, art. IX, § 3. That Constitutional  
17     command, with the additional proviso that the school maintained by each district be "free," has  
18     persisted to the present day. Cal. Const., art. IX, § 5.

19           34.     In furtherance of the State system of free public education, the Constitution also  
20     creates State and county educational offices, including a Superintendent of Public Instruction  
21     and a State Board of Education. Cal. Const. art. IX, § 2-3.3, 7. It authorizes the formation of  
22     local school districts (*Id.*, § 6 1/2, 14), requires that all public elementary and secondary schools  
23     be administered within the Public School System (*Id.*, § 6), establishes a State School Fund  
24     (Fund) (*Id.*, § 4), reserves a minimum portion of State revenues for allocation to the Fund (*Id.*,  
25     art. XVI, § 8, 8.5), guarantees minimum allocations from the Fund for each public school (*Id.*,  
26     art. IX, § 6), specifies minimum salaries for public school teachers (*ibid.*), authorizes the State  
27     Board of Education to approve public school textbooks (*Id.*, § 7.5), and permits the Legislature  
28

1 to grant local districts such authority over their affairs as does not “conflict with the laws and  
2 purposes for which school districts are established.” *Id.*, § 14.

3 35. The California Supreme Court has repeatedly emphasized that under the State  
4 Constitution, “education [is] a fundamental interest ‘which [lies] at the core of our free and  
5 representative form of government.’” *Butt v. State of California* (1992) 4 Ca1.4th 668, 683  
6 (quoting *Serrano v. Priest* (1976) 18 Ca1.3d 728, 767-68 (“*Serrano II*”) (second alteration in  
7 original)). The fundamental nature of the right to education arises from “the distinctive and  
8 priceless function of education in our society.” *Serrano v. Priest* (1971) 5 Ca1.3d 584, 608-09  
9 (“*Serrano I*”). As the Court has noted, education plays an indispensable role in our society in  
10 two ways. First, education serves as a major determinant of an individual’s chances for  
11 economic and social success. *Id.* at 605. Second, education asserts a unique influence on an  
12 individual’s development as a citizen and participant in political and community life. *Id.* Thus,  
13 “education is the lifeline of both the individual and society.” *Id.*

14 36. California courts have repeatedly recognized that the California Constitution  
15 requires that all California students have “equal access to a public education system that will  
16 teach them the skills they need to succeed as productive members of modern society.” *Hartzell v.*  
17 *Connell* (1984) 35 Cal.3d 899, 906-09; *see also Serrano I*, 5 Cal.3d at 608-08; *Piper v. Big Pine*  
18 *Sch. Dist.* (1924) 193 Cal. 664; *O’Connell v. Superior Court* (2006) 141 Cal.AppAth 1452, 1482.  
19 Consistent with the California Constitution’s recognition of education as a fundamental interest  
20 and the equal protection guarantees found in the California Constitution, a student may not be  
21 provided with a program of education that “falls fundamentally below prevailing statewide  
22 standards.” *Butt*, 4 Cal. 4th at 685, 686-87. Any action that has a real and appreciable impact  
23 upon the right to basic educational equality is subject to strict scrutiny. *See Serrano II*, 18Ca1.3d  
24 11 at 761, 767-68. The State bears the ultimate responsibility for ensuring public school students  
25 receive equal educational opportunity and adequate educational services. Local school districts,  
26 like LAUSD, are responsible for delivering day-to-day instruction and educational services that  
27 comport with the California Constitution.

1           37.     The California Supreme Court has recognized that the equal protection guarantees  
2 of the California Constitution (art. I, § 7 (a) and (b); art. IV, § 16 (a)) are so important that they  
3 require State intervention to ensure that fiscal problems do not deprive a local district's students  
4 of basic educational equality. *Butt v. State of California* (1992) 4 Cal.4th 668, 679.

5           38.     The system of public schools, although administered through local districts  
6 created by the Legislature, is "one system . . . applicable to all the common schools." *Kennedy v.*  
7 *Miller* (1893) 97 Cal. 429, 432. "In view of the importance of education to society and to the  
8 individual child, the opportunity to receive the schooling furnished by the state must be made  
9 available to all on an equal basis." *Jackson v. Pasadena City Sch. Dist.*, (1963) 59 Cal.2d 876,  
10 880.

11  
12                               **CALIFORNIA'S FUNDING OF COURT-ORDERED**  
13                               **DESEGREGATION PROGRAMS**

14           39.     For decades, the State has reimbursed LAUSD for its court-ordered desegregation  
15 expenses. Initially, the reimbursements were directly reimbursed under Education Code Section  
16 42243.6, but in 2001, Senate Bill 135 amended the way in which the State reimbursed school  
17 districts for their desegregation program expenses. As the Legislative Counsel's Digest  
18 explained the 2001 change:

19                   (4) Existing law requires, and provides a mechanism for,  
20 reimbursement of certain school district costs associated with  
21 compliance with desegregation plans.

22                   This bill would repeal provisions governing funding of  
23 court-ordered and voluntary desegregation plans. The bill would  
24 combine funding for those programs and establish the Targeted  
25 Instructional Improvement Grant to fund the costs of any  
26 court-ordered desegregation program, if the order exists and is still  
27 in force, and to provide instructional improvement for the lowest  
28

1 achieving pupils in a district.

2  
3 40. Over the years, the California Legislature has renewed the Targeted Instructional  
4 Improvement Grant ("TIIG Grant") several times. Since the 2005-06 fiscal year, districts seek  
5 reimbursement for court-ordered desegregation pursuant to Education Code Section 41540,  
6 which provides:

7 If a school district is not in violation of a court order regarding  
8 desegregation, the school district may expend funds received  
9 pursuant to this article for any purpose authorized by the programs  
10 listed in Section 41541 as the statutes governing those programs  
11 read on January 1, 2004.

12 Cal. Educ. Code § 41540 (b).

13 41. The State has also recognized the primary importance of funding court-ordered  
14 desegregation costs. For example, any district that receives the TIIG Grant funding from the  
15 State has consistently been required to fund all court-ordered desegregation costs first. Cal.  
16 Educ. Code § 41543 ("In expending funds received pursuant to this article, a school district shall  
17 give first priority to funding the costs of a court-ordered desegregation program if the order  
18 exists and is still in force.").

19  
20 **FIRST CAUSE OF ACTION**

21 **[Violation of the Equal Protection Clauses of the California Constitution,**  
22 **Article I, Section 7(a) & Article IV, Section 16(a) – Against All Defendants.]**

23 42. Petitioner incorporates by reference the foregoing paragraphs as though fully set  
24 forth herein.

25 43. Unlike most school districts throughout this State, LAUSD is required to provide  
26 transportation to eligible students attending magnet schools, which are the vast majority of the  
27 students that currently receive those services.

1           44.     As a result, the mid-year trigger cuts force the District to divert much needed  
2 education dollars from the classroom to avoid the impending decimation of its transportation  
3 budget.

4           45.     Under the California Constitution, the State bears the ultimate responsibility for  
5 ensuring public school students receive equal educational opportunities and free adequate  
6 education services. Calif. Const. art. I, § 7 (a) and (b); art. IV, § 16 (a). The California Supreme  
7 Court has consistently recognized that the equal protection guarantees are so important that they  
8 require State intervention to ensure that fiscal problems do not deprive a local district's students  
9 of basic educational equality. *Butt v. State of California*, (1992) 4 Cal.4th 668, 679.

10          46.     The District's students have the right to receive equal protection of the laws,  
11 pursuant to article I, section 7(a) and article IV, section 16(a) of the California Constitution.  
12 This mandate provides all California school children, including LAUSD's, equal access to the  
13 States prescribed educational programs and guarantees equal educational opportunities.

14          47.     However, because LAUSD cannot withstand further budget cuts without  
15 adversely impacting the educational benefits offered to its students, the District stands to violate  
16 the California Constitution's rights of its students, who would receive a disproportionately lower  
17 share of funding for their education as compared to students in school districts not required to  
18 use classroom dollars to fund mandatory transportation costs.

19          48.     Respondents must be enjoined from implementing the mid-year budget cuts to  
20 Home To School Transportation, which are unconstitutional as applied to LAUSD and its  
21 students. Without immediate relief, the District and its students will suffer irreparable harm in  
22 violation of the California Constitution.

23  
24                   **SECOND CAUSE OF ACTION**

25                   **[Violation of Article IX, Sections 1 and 5 of the**  
26                   **California Constitution – Against All Defendants.]**

27          49.     Petitioner incorporates by reference the foregoing paragraphs as though fully set  
28

1 forth herein.

2 50. Respondents have created an untenable situation that violates the rights of  
3 Petitioner and its students, who, pursuant to article IX, sections 1 and 5 of the California  
4 Constitution, have the fundamental Constitutional right to learn in a “system of common  
5 schools” that are “kept up and supported” such that students may learn and receive the “diffusion  
6 of knowledge and intelligence essential to the preservation of the[ir] rights and liberties.”

7 51. These constitutional provisions impose on Respondents the duty to use “all  
8 suitable means” to facilitate providing an education that will teach all students the skills they  
9 need to succeed as productive members of a modern society.

10 52. The State has the duty to equip LAUSD to deliver an educational program to all  
11 students that provides them an opportunity to learn the academic standards that the State has  
12 prescribed for success in the 21<sup>st</sup> century.

13 53. Forcing or leaving LAUSD to divert precious classroom dollars away from  
14 educating its students so it can cover transportation services, which the State has consistently  
15 recognized as mandatory and necessary and reimbursed, places an unconstitutional burden on the  
16 fundamental rights of students, and must be enjoined.

17  
18 **THIRD CAUSE OF ACTION**

19 **[Violation of Article I, Section 7(b) of the**  
20 **California Constitution – Against All Defendants.]**

21 54. Petitioner incorporates by reference the foregoing paragraphs as though fully set  
22 forth herein.

23 55. The State of California has established content standards and other commitments  
24 of care and services to Kindergarten through Grade 12 students, defining the education to which  
25 students are entitled. These commitments are among the privileges and immunities that may not  
26 be granted to some citizens or classes of citizens but not provided on the same terms to all  
27 citizens.

#### FOURTH CAUSE OF ACTION

**[Violation of California Government Code Section 11135.]**

57. Petitioner incorporates by reference the foregoing paragraphs as though fully set forth herein.

58. California Government Code section 11135 provides:

No person in the State of California shall, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state.

59. The impending trigger cuts have forced the District into the untenable position of having to decide whether to violate its students' rights to receive educational opportunity regardless of economic status, nationality, race or ethnicity, and disability, pursuant to California Government Code Section 11135, by failing to provide them equal educational opportunities, adequate educational services, or necessary services, as described above.

60. Respondents must be enjoined from implementing the mid-year budget cuts to Home To School Transportation, which are unconstitutional as applied to LAUSD and its students. Without immediate relief, the District and its students will suffer irreparable harm in violation of the California Constitution.



**FIFTH CAUSE OF ACTION**

**[Unconstitutional Delegation – Violation of the California Constitution, art. III, § 3.]**

61. Petitioner incorporates by reference the foregoing paragraphs as though fully set forth herein.

62. The California Constitution provides for the separation of powers among the legislative, executive, and judicial branches of government:

The powers of state government are legislative, executive, and judicial.

Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution.

(Cal. Const. art III, § 3.)

63. Pursuant to Chapter 41, Statutes of 2011 (Assembly Bill 121, Committee on Budget), the Director of Finance is required to compare its updated revenue estimates for 2011-12 with the Legislative Analyst Office's estimates. Chapter 41 then requires the comparison of the higher of these two estimates with the forecast contained in the 2011-12 Budget Act.

64. Pursuant to Chapter 41, if the higher revenue forecast for the 2011-12 fiscal year is less than \$86,452,500,000, the Director of Finance is vested with the authority to make additional reductions to specific items up to the amount specified by Chapter 41.

65. Petitioner is informed and believes, and on that basis alleges, that on December 13, 2011, the Director of Finance issued her Revenue Forecast and Determination Pursuant to Chapter 41, Statutes of 2011 exercising her discretion to make appropriation cuts up to the limits established by Chapter 41. The Director of Finance's estimate was higher than the Legislative Analyst Office estimate and therefore was used as the Director of Finance as the operative forecast.

66. Petitioner is informed and believes, and on that basis alleges, that the Director of Finance used her unconstitutionally delegated authority in building the revenue estimates on which the appropriation cuts are based. Per the Director of Finance's December 13, 2011 letter, "[i]nputs to the state model, as well as the reasonableness of the outputs, are reviewed by a peer

1 group of economist who work in California.” This economic forecast, which is based on various  
2 variables under the control of the Governor and Director of Finance, such as the accounting for  
3 revenue received by the State from various sources and the Director of Finance’s own estimates,  
4 form the basis for the Director of Fiance’s state revenue projections.

5 67. Chapter 41 gives the Governor, through the Director of Finance, unfettered  
6 discretion to make any amount of appropriation cuts up to the limit established by Chapter 41.

7 In relevant part, Chapter 41 reads:

8 (b) If the higher revenue forecast determined pursuant to subdivision (a) projects  
9 General Fund revenues for the 2011-12 fiscal year of less than \$ 87,452,500,000,  
10 the Director of Finance shall do all of the following on or after January 1, 2012:

11 (1) Reduce Item 0690-102-0001 of Section 2.00 by not more than \$ 15,000,000.

12 (2) Reduce Item 4300-101-0001 of Section 2.00 by not more than \$ 100,000,000.

13 (3) Reduce Item 5180-111-0001 of Section 2.00 by not more than \$ 10,000,000.

14 (4) Reduce Item 5225-001-0001 of Section 2.00 by not more than \$ 20,000,000.

15 (5) Reduce Items 6110-194-0001 and 6110-196-0001 of Section 2.00 by not more  
16 than \$ 23,000,000 in the aggregate.

17 (6) Reduce Item 6120-150-0001 of Section 2.00 by not more than \$ 450,000.

18 (7) Reduce Item 6120-160-0001 of Section 2.00 by not more than \$ 216,000.

19 (8) Reduce Item 6120-211-0001 of Section 2.00 by not more than \$ 8,500,000.

20 (9) Reduce Item 6120-213-0001 of Section 2.00 by not more than \$ 3,700,000.

21 (10) Reduce Item 6120-221-0001 of Section 2.00 by not more than \$ 3,000,000.

22 (11) Reduce Item 6440-001-0001 of Section 2.00 by not more than \$  
23 100,000,000.

24 (12) Reduce Item 6610-001-0001 of Section 2.00 by not more than \$  
25 100,000,000.

26 (13) Reduce Item 6870-101-0001 of Section 2.00 by not more than \$ 30,000,000.

27 2011 Bill Text CA A.B. 121, Chapter 41.

1           68.     The authorization delegated by Chapter 41 is unconstitutional. For example,  
2     Petitioner is informed and believes, and on that basis alleges, that the Director of Finance, in her  
3     December 13, 2011 determination exercised her discretion to make a reduction of \$14,558,000 to  
4     Budget Act Item 0690-102-0001 although Chapter 41 authorized a cut of no more than  
5     \$15,000,000. Likewise, Petitioner is informed and believes, and on that basis alleges, that  
6     although Chapter 41 authorizes a reduction of Items 6110-194-0001 and 6110-196-0001 by not  
7     more than \$ 23,000,000 in the aggregate, the Director of Finance exercised her discretion to  
8     reduce those items by an aggregate of \$22,984,000. Further, Petitioner is informed and believes,  
9     and on that basis alleges, that although Chapter 41 authorizes a reduction to Budget Act Item  
10    6110-111-0001 up to \$248,000,000, it does not require a reduction of the entire amount, leaving  
11    the amount of the cut up to the discretion of the Governor and Director of Finance.

12           69.     The power to make appropriations is constitutionally reserved solely to the  
13    Legislature. (Cal. Const. art XVI, § 7). As such, the authority to appropriate funds delegated to  
14    the Governor and the Director of Finance through Chapter 41, is an improper and  
15    unconstitutional delegation of Legislative authority.

## **SIXTH CAUSE OF ACTION**

### **[Declaratory Relief – Against All Respondents.]**

19           70.     Petitioner incorporates by reference the foregoing paragraphs as though fully set  
20    forth herein.

21           71.     An actual and existing controversy exists between the Petitioner and Respondents  
22    because Petitioner contends, and Respondents dispute, that Respondents, actions and inactions as  
23    described above have violated article I, section 7(a) and article IV, section 16(a) of the California  
24    Constitution; article I, section 7(b) of the California Constitution; article IX, sections 1 and 5 of  
25    the California Constitution; article III, section 3 of the California Constitution, and California  
26    Government Code section 11135.

27           72.     As described above, because of the combined mandates, the trigger cuts force the  
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District to choose between two illegal and unconstitutional outcomes and grants unfettered discretion to the Governor and Director of Finance over appropriatoin. It must either terminate its transportation services in direct violation of federal and state laws and the 1981 *Crawford* court order, or divert precious classroom dollars from its general fund to pay for the required transportation services.

73. Choosing to divert funds that are needed in the classrooms, which the *Crawford* order requires, violates the California Constitution because further budget cuts would adversely impact the educational benefits and opportunities offered to LAUSD's students as compared to students in school districts without such mandatory costs.

74. Petitioner seeks a judicial declaration that Respondents have violated these Constitutional and statutory provisions.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Petitioner prays for the following relief:

1. Injunctive relief forbidding Respondents, their officers, agents, and employees from implementing the mid-year budget trigger cuts as to LAUSD for Home-to-School Transportation (Budget Item 6110-111-0001), as set out in Assembly Bill 121 (Chapter 41 of 2011 Statutes);

2. Injunctive relief prohibiting Respondents, their officers, agents, and employees from implementing at any time in the future budget cuts that deprive LAUSD of reimbursements for the mandatory transportation services that it provides;

3. Injunctive relief preventing further educational harm to students at Petitioner's schools and providing supplemental educational services to make up for any educational opportunities lost as a result of the implementation of the mid-year budget trigger cuts as to LAUSD for Home-to-School Transportation (Budget Item 6110-111-0001), as set out in Assembly Bill 121 (Chapter 41 of 2011 Statutes);

1           4.       That this Court issue a writ of mandate ordering Respondents to refrain from  
2 enforcing Chapter 41, Statutes of 2011 and to refrain from implementing the appropriation cuts  
3 contained in the Director of Fiance's December 13, 2011 letter;

4           5.       A declaration that Respondents' actions violate the rights of Petitioner and its  
5 students under the Equal Protection Clauses of the California Constitution, article I, section 7(a),  
6 and article IV, section 16(a);

7  
8           6.       A declaration that Respondents' actions violate the rights of Petitioner and its  
9 students under Article IX, sections 1 and 5 of the California Constitution;

10          7.       A declaration that Respondents' actions violate the rights of Petitioner and its  
11 students under Article I, section 7(b) of the California Constitution;

12          8.       A declaration that Respondents' actions violate the rights of Petitioner and its  
13 students under California Government Code Section 11135;

14          9.       An award of costs, disbursements, and reasonable attorneys' fees and expenses  
15 pursuant to California Code of Civil Procedure section 1021.5 and any other applicable provision  
16 of law; and

17          10.      Such other relief as this Court deems just and proper.

18  
19 DATED:       December 14, 2011

BAUTE CROCHETIERE & MALONEY LLP

20  
21 By 

SEAN A. ANDRADE, ESQ.

Attorneys for Plaintiff

LOS ANGELES UNIFIED SCHOOL DISTRICT

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VERIFICATION

I, Enrique Buitrago, am the Chief Clerk <sup>Officer</sup> of the Los Angeles Unified School District, the petitioner herein, and I am authorized to make this declaration on its behalf.

I hereby certify that I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF and the contents thereof are true and accurate to the best of my knowledge and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 12/14/11

[Signature]  
Enrique Buitrago [Name]